

EXHIBIT 6

UNITED STATES of AMERICA

VS

METHODIST LE BONHEUR HEALTHCARE, et al.

JEFFREY LIEBMAN

September 27, 2022



Julie Lyle, RMR, LCR, CRR, RPR

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1 Q. Do you know if Methodist ever paid West more
2 compensation than was set forth in a fair market
3 value opinion?

4 MR. VROON: Object to the form.

5 **THE WITNESS: Again, I don't know**
6 **what -- I didn't even know they got a fair market**
7 **value opinion, so I'd have to say no.**

8 BY MR. CHENERY:

9 Q. Do you have any factual basis for saying the
10 fair market value opinions are unreliable?

11 MR. VROON: Object to the form.

12 **THE WITNESS: I have never seen the fair**
13 **market value opinions.**

14 BY MR. CHENERY:

15 Q. I know you said you haven't seen the
16 affiliation agreements.

17 Are you aware that there was a management
18 services agreement in place between the parties?

19 **A. I became aware during a meeting where they**
20 **were discussing what to do in the future.**

21 Q. Who was discussing what to do in the future?

22 **A. There was a meeting with Erich Mounce -- I**
23 **believe it came up a couple of times -- a few times.**
24 **So one at these cancer meetings. They had these**
25 **cancer strategy dinner meetings, and it came up**

1 **there by their consultants. I think it was**
2 **PricewaterhouseCoopers. Several of the doctors**
3 **mentioned it. Erich Mounce mentioned it.**

4 **There was also a subset of that where there**
5 **was a meeting of Erich Mounce, myself -- Dr. Stern**
6 **was there, and maybe a couple others -- that also**
7 **described what do you do on a going-forward basis**
8 **because there was a management services agreement**
9 **that had to be renegotiated or redone.**

10 Q. So this meeting was about renegotiating the
11 existing management services agreement?

12 **A. So there were presentations and discussions**
13 **about whether the existing was -- and then there was**
14 **a -- there were a few meetings about we -- it's**
15 **coming up for renewal; it has to be negotiated. It**
16 **was going to be up, I think, within a year or**
17 **something, or two years, and they wanted to get**
18 **started early.**

19 Q. Do you know when that meeting was?

20 **A. Boy, I -- I don't -- I don't remember.**

21 Q. At that meeting, was there discussion about
22 management services that had been provided in the
23 past under the existing management services
24 agreement?

25 **A. There was a generic mention of the management**

1 **services of the entire cancer service line as well**
2 **as concerns about the physicians being paid at the**
3 **90th percentile or above and a concern of what would**
4 **happen if 340B funding was ever cut, diminished, or**
5 **something happened to it.**

6 Q. What's your understanding of how Methodist
7 paid West under the management services agreement?

8 **A. I don't have any knowledge of that.**

9 Q. What's your understanding of how Methodist
10 paid West under the professional services agreement?

11 **A. I didn't see their professional services**
12 **agreement either.**

13 Q. So what specifically were the concerns that
14 were raised at this dinner about West's
15 compensation?

16 **A. Well, the presentations done by the**
17 **consultants indicated that the driving force for the**
18 **growth development of the cancer service line and**
19 **the relationship between West Clinic and Methodist**
20 **is heavily reliant -- excuse me -- on 340B revenue**
21 **and that there was also an inability and -- an**
22 **ability for the West Clinic to move referrals as**
23 **they grew and developed. And it was even said there**
24 **that they could do even more of that as the 340B and**
25 **as the programs grew.**

1 Q. Where were they moving referrals?

2 **A. They were moving referrals into the Methodist**
3 **Le Bonheur Healthcare System.**

4 Q. Where were they moving those referrals from?

5 **A. Prior to an affiliation agreement, for**
6 **decades, their primary hospital was Baptist. Their**
7 **original location was basically across the street.**
8 **It's not quite across the street. It's sort of**
9 **kitty-corner from a big Baptist facility that's in**
10 **the eastern edge of Memphis.**

11 Q. And how do you know that?

12 **A. I visited that facility.**

13 Q. But how do you know that for decades that had
14 been West's primary place of referring?

15 **A. Dr. Schwartzberg told me that.**

16 Q. What did he tell you about that?

17 **A. He told me that they were active participants**
18 **in the Baptist healthcare system for a long time.**
19 **They were very active, involved in the medical staff**
20 **dealings, whatever that meant there, that they were**
21 **out on that location for a long time.**

22 Q. And what did Dr. Schwartzberg tell you about
23 moving referrals to Methodist?

24 **A. So that comment was made at one of those**
25 **dinner meetings, saying that there was more**

1 potential for growth and development of the cancer
 2 oncology service line because they could even do --
 3 do an even better job of moving referrals.
 4 Q. And who made that comment?
 5 A. Dr. Schwartzberg.
 6 Q. Did Dr. Schwartzberg ever say West was moving
 7 referrals due to an increase in compensation?
 8 A. I don't remember that being said.
 9 Q. What was the concern you referenced to being
 10 paid at or above 90 percent?
 11 A. Erich Mounce had raised the concern that the
 12 physician -- the medical oncology income had to stay
 13 at the 90th percentile or above if they were going
 14 to go forward with a new kind of affiliation.
 15 Q. And what is that 90 percent of?
 16 A. Well, I -- there are different models you can
 17 use, but it could either be MGMA or Pinnacle or HHI.
 18 There are databases that show the income levels for
 19 physicians across the country.
 20 Q. And do you know which one Mr. Mounce was
 21 referring to in that meeting?
 22 A. I do not.
 23 Q. Did you have concerns about the West doctors
 24 being compensated at 90 percent or above?
 25 A. I had concerns about providing any sort of

1 guarantee at a specific level that would be
 2 unrelated to any sort of patient care activity.
 3 Q. What specifically are those concerns?
 4 A. It's my understanding that you can't -- you
 5 should only pay doctors related to their
 6 professional performance, that you shouldn't pay
 7 them X when they only provide clinical services at
 8 1/4 of X.
 9 Q. Do you know if the West doctors were
 10 compensated other than based on their performance
 11 during the affiliation?
 12 MR. VROON: Object to the form.
 13 THE WITNESS: I don't know their
 14 individual compensation schedules.
 15 BY MR. CHENERY:
 16 Q. Do you know if the West doctors generally
 17 were compensated otherwise than based on their
 18 performance?
 19 MR. VROON: Object to the form.
 20 THE WITNESS: I -- I don't know.
 21 BY MR. CHENERY:
 22 Q. Do you know who the consultants were that
 23 were presenting at that meeting?
 24 A. PricewaterhouseCooper.
 25 Q. What was the context of their presentation?

1 A. They were brought in to facilitate a new
 2 agreement, I believe, and to talk -- outline a new
 3 strategy going forward for the relationship between
 4 Methodist, University of Tennessee, and the West
 5 Clinic.
 6 Q. And I want to circle back to the management
 7 services.
 8 At this dinner meeting with
 9 PricewaterhouseCoopers, were there concerns raised
 10 relative to the management services that West would
 11 provide under the affiliation?
 12 MR. VROON: Object to the form.
 13 THE WITNESS: The -- the issue that was
 14 raised was simply -- it wasn't an issue -- it was
 15 the statement that there was a management services
 16 agreement and that the West Clinic was paid for
 17 management services of the oncology service line.
 18 BY MR. CHENERY:
 19 Q. And so the concern was that West was paid for
 20 managing the oncology service line?
 21 MR. VROON: Object to the form.
 22 THE WITNESS: Let me -- let me dissect
 23 that a little bit. You mean my concern or the
 24 concern of the group?
 25 //

1 BY MR. CHENERY:
 2 Q. Did you have a concern?
 3 A. I did.
 4 Q. What was your concern?
 5 A. I didn't see any management services being
 6 done at Methodist University Hospital.
 7 Q. Do you know what management services were
 8 supposed to be provided under the management
 9 services agreement?
 10 A. I didn't see the management services
 11 agreement.
 12 Q. Regardless of whether you saw the agreement,
 13 do you know what services were supposed to be
 14 provided under it?
 15 A. I -- I kept hearing all inpatient and
 16 outpatient activities were to be supervised, that
 17 they were going to help with regulatory issues,
 18 training and education of staff, long-term planning,
 19 input and advice on leases, purchasing of things,
 20 cutting-edge research and technologies. Those are
 21 the things I heard talked about.
 22 Q. Who did you hear talk about that?
 23 A. I heard that in a variety of doctors in
 24 hallway conversations and at different meetings.
 25 Q. Which doctors?

1 "Accepted, Dr. Michael Martin, pharmacy at West
2 Clinic and MUH with Jeff Liebman."

3 Do you think this may have been a different
4 meeting with Mike Martin than the one that's
5 referenced in Exhibit 246?

6 MR. VROON: Object to the form.

7 **THE WITNESS: I -- I just don't**

8 **remember.**

9 MR. CHENERY: Okay.

10 MR. VROON: Taylor, I'm sorry, but I
11 need just one minute. I need to take a quick break
12 just a minute. I'm sorry to interrupt you, though,
13 okay?

14 MR. CHENERY: Sure. Go off the record.

15 VIDEO TECHNICIAN: Going off the record
16 at 11:17 a.m.

17 (An off-the-record discussion was held.)

18
19 MR. CHENERY: The deposition of
20 Mr. Liebman has been suspended for today due to a
21 potential COVID 19 exposure. Methodist reserves its
22 right to reconvene and continue Mr. Liebman's
23 deposition at a future date.

24 MR. VROON: Yeah. We -- we regret that
25 there was a potential COVID exposure, and we're

1 doing this as a precaution for Mr. Liebman in
2 particular and what's best for him medically, and so
3 we are suspending the deposition allowing him to
4 return to Boston under the care of his doctors, as
5 needed. Okay?

6 And we're sorry about the inconvenience.
7 Thank you.

8 **FURTHER DEPONENT SAITH NOT**
9 **(Proceedings adjourned at 11:55 a.m.)**

E R R A T A P A G E

1 I, JEFFREY H. LIEBMAN, M.D., having
2 read the foregoing deposition, pages 1 through 86,
3 do hereby certify said testimony is a true and
4 accurate transcript, with the following changes (if
5 any):

PAGE	LINE	SHOULD HAVE BEEN
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JEFFREY LIEBMAN

Notary Public

My Commission Expires:

Reported by: JULIE K. LYLE, LCR

REPORTER'S CERTIFICATE

STATE OF TENNESSEE
COUNTY OF DAVIDSON

I, JULIE K. LYLE, Licensed Court
Reporter, with offices in Hermitage, Tennessee,
hereby certify that I reported the foregoing
deposition of JEFFREY LIEBMAN, by machine shorthand
to the best of my skills and abilities, and
thereafter the same was reduced to typewritten form
by me. I am not related to any of the parties
named herein, nor their counsel, and have no
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JULIE K. LYLE, LCR
Elite Reporting Services
Associate Reporter
Notary Public State of Tennessee

LCR #850 - Expires: 6/30/24

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Volume 2

JEFFREY LIEBMAN

January 27, 2023



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<p style="text-align: right;">Page 117</p> <p>1 Q. And you don't know if Methodist owned them?</p> <p>2 A. I do not.</p> <p>3 Q. Who informed you that West did not pay rent</p> <p>4 at the cancer center location you're referring to?</p> <p>5 A. I received a -- it was either an email or a</p> <p>6 text from a woman who worked inside the corporate</p> <p>7 office. It had to do with physician groups.</p> <p>8 Q. From what corporate office is that?</p> <p>9 A. Methodist Le Bonheur.</p> <p>10 Q. What was her name?</p> <p>11 A. I think it might have been Mary Gay Miller,</p> <p>12 but I -- I'm -- I'm not sure of her last name.</p> <p>13 Q. What was her position?</p> <p>14 A. She was a -- she was a person involved with</p> <p>15 the oversight and main -- and running of physician</p> <p>16 groups and sort of a physician liaison with the</p> <p>17 medical community.</p> <p>18 Q. What did she tell you in that email or text?</p> <p>19 A. She told me that The West Clinic did not pay</p> <p>20 rent.</p> <p>21 Q. What was your response to that?</p> <p>22 A. I was surprised.</p> <p>23 Q. Did you follow up with anyone about that?</p> <p>24 A. I don't recall who I spoke to about that. I</p> <p>25 know it was an issue because I was trying to plan</p>	<p style="text-align: right;">Page 119</p> <p>1 A. I was concerned the 340B revenues were being</p> <p>2 used to circle back and fund economic relationships</p> <p>3 or economic benefit to the private practice group</p> <p>4 and not being directed appropriately.</p> <p>5 Q. What was your basis for that concern?</p> <p>6 A. Well, I had sat through some meetings where</p> <p>7 it came up various times from outside consultants,</p> <p>8 from other people, how 340B was the economic basis</p> <p>9 for the relationship between The West Clinic and the</p> <p>10 Methodist system.</p> <p>11 Q. And what do you mean that "revenues were used</p> <p>12 to fund economic relationships"?</p> <p>13 A. Well, what I meant was that the profits from</p> <p>14 340B were being funneled in ways to enhance the</p> <p>15 profitability as well as provide additional</p> <p>16 resources to The West Clinic.</p> <p>17 Q. What do you mean, profits were funneled?</p> <p>18 A. Well, the 340B profits, the way -- the 340B</p> <p>19 profits and money was the basis by which The West</p> <p>20 Clinic relationship was financed as well as</p> <p>21 developing services that were beneficial to the</p> <p>22 physician group, which then in turn it changed their</p> <p>23 referral patterns and sent more patients to the</p> <p>24 Methodist system.</p> <p>25 Q. You said profits were funneled. I'm just</p>
<p style="text-align: right;">Page 118</p> <p>1 space for an expansion on the Methodist University</p> <p>2 Hospital campus where I was intending to charge them</p> <p>3 rent as a private practice group.</p> <p>4 Q. Do you remember speaking with anyone about</p> <p>5 the rent issue that Mary Gay Miller identified?</p> <p>6 A. I don't remember.</p> <p>7 Q. Did anyone else other than Mary Gay Miller</p> <p>8 ever raise a concern about rent with you?</p> <p>9 A. Well -- I'm sorry, could you rephrase that?</p> <p>10 You said, "raise a concern"? I don't believe --</p> <p>11 Q. Right.</p> <p>12 A. -- she raised a concern. I asked her because</p> <p>13 I was trying to plan a new facility.</p> <p>14 Q. So you asked Mary Gay Miller about whether</p> <p>15 West was paying Methodist rent at the cancer center?</p> <p>16 A. No, I actually asked what rent were they</p> <p>17 paying.</p> <p>18 Q. Okay. So her email or text was in response</p> <p>19 to a question that you asked her?</p> <p>20 A. That's correct.</p> <p>21 Q. Did you ever ask anyone else about whether</p> <p>22 West was paying rent at the cancer center?</p> <p>23 A. I don't remember.</p> <p>24 Q. What was your concern related to the misuse</p> <p>25 of 340 -- the 340B program?</p>	<p style="text-align: right;">Page 120</p> <p>1 trying to figure out how you know those profits were</p> <p>2 spent anywhere.</p> <p>3 A. Well, the -- there were several meetings</p> <p>4 where the discussion of 340B came up and the</p> <p>5 physicians themselves, as well as their leaders</p> <p>6 administratively, made it clear that the basis of</p> <p>7 the relationship was they wanted access to 340B</p> <p>8 funding and if that went away, then they would</p> <p>9 either leave or have to get certain income</p> <p>10 guarantees from the Methodist system.</p> <p>11 Q. What do you mean by 340B funding?</p> <p>12 A. Well, 340B is a pharmaceutical discount</p> <p>13 program provided to disproportionate shared</p> <p>14 hospitals where the hospitals get a steep discount.</p> <p>15 And, therefore, the 340B reimbursement changes the</p> <p>16 cost change for how much the drugs cost so those</p> <p>17 encounters become much more profitable.</p> <p>18 Q. But you understand it's a -- a discount on</p> <p>19 the drug price, correct?</p> <p>20 A. I -- I -- I believe it is a discounted drug</p> <p>21 program, but I don't -- I can't -- I'm not an expert</p> <p>22 on 340B funding. But I do know it leads to enhanced</p> <p>23 profitability for the hospitals.</p> <p>24 Q. Is it your understanding that under 340B,</p> <p>25 Methodist would be receiving funds?</p>

1 **A. Methodist would pay less for the drugs.**

2 Q. So 340B would not cause Methodist to receive
3 funds?

4 MR. VROON: Object to the form of the
5 question. He just -- object to the form, misstating
6 his testimony.

7 **THE WITNESS: Could you repeat the**
8 **question?**

9 BY MR. CHENERY:

10 Q. Is it your understanding that Methodist would
11 receive funds as part of the 340B drug pricing
12 program?

13 **A. Methodist receives funds whenever they**
14 **provide chemotherapy to patients, as does other**
15 **hospitals.**

16 Q. Right. Wouldn't those funds be for clinical
17 services provided?

18 MR. VROON: Object to the form.

19 **THE WITNESS: It certainly would be for**
20 **clinical services provided, yes.**

21 BY MR. CHENERY:

22 Q. Is it your understanding that any party
23 transmits funds to Methodist as part of the 340B
24 drug pricing program?

25 MR. VROON: Objection to form.

1 **THE WITNESS: I'm sorry. I don't know**
2 **what you mean by "any party."**

3 BY MR. CHENERY:

4 Q. Any entity.

5 MR. VROON: Objection to form.

6 **THE WITNESS: Could you repeat the**
7 **question again? I want to make sure I understand --**
8 **give you my best answer.**

9 MR. CHENERY: Terri, could you read that
10 back, please.

11 (The requested record was read back by
12 the court reporter.)

13 **THE WITNESS: Again, I -- when you say**
14 **any person, the reimbursement they have is through**
15 **usually insurance companies and government**
16 **reimbursement.**

17 BY MR. CHENERY:

18 Q. So does any governmental entity transfer
19 funds to Methodist as part of the 340B drug pricing
20 program?

21 MR. VROON: Object to the form.

22 **THE WITNESS: Well, the government or**
23 **third-party payers, which could include governments,**
24 **pay for services that are related to chemotherapy.**
25 **///**

1 BY MR. CHENERY:

2 Q. How do you understand -- or do you -- let me
3 start over.

4 Is it your understanding that The West
5 Clinic received funds under the 340B drug pricing
6 program?

7 **A. I don't know how The West Clinic received**
8 **their funds.**

9 Q. So what's your understanding of how the 340B
10 program financed West's relationship with Methodist?

11 **A. The 340B funding, again, according to what I**
12 **heard at these meetings, was the basis by which the**
13 **reimbursement to The West Clinic was designed, that**
14 **is within the underpinnings of the relationship, the**
15 **financial relationship.**

16 Q. And what reimbursements are you referring to?

17 **A. Well, what I'm talking about is however the**
18 **doctors or the group was getting paid.**

19 Q. And what's your understanding of how the
20 doctors or the group were getting paid?

21 **A. I don't have the detail on that.**

22 Q. Do you know how the doctors or the group were
23 getting paid?

24 **A. I don't -- I'm sorry. You mean today or back**
25 **then or -- or what -- what is your question?**

1 Q. During your time at Methodist, do you
2 understand how the doctors or the group were getting
3 paid?

4 **A. The financial relationship that they get**
5 **carved out was not through the hospital but through**
6 **the corporate office.**

7 Q. But during your time at Methodist do you
8 understand how the doctors or West Clinic were
9 getting paid?

10 **A. No.**

11 MR. VROON: Object to the form.

12 BY MR. CHENERY:

13 Q. Is the 340B drug pricing program limited to
14 oncology services?

15 **A. I don't know.**

16 Q. Who was present at the meetings in which the
17 340B funding was discussed?

18 **A. The 340B discussion came up at several**
19 **meetings. It came up at a series of meetings that**
20 **was run by outside consultants, I think it was KPMG.**
21 **It came up during negotiations and discussions about**
22 **renewing The West Clinic arrangement with the**
23 **Methodist system.**

24 Q. When were those meetings?

25 **A. I don't recall the dates. I think it was two**

<p style="text-align: right;">Page 185</p> <p>1 A. I do not.</p> <p>2 Q. It goes on to say, "Gary Sorb asked Jeff</p> <p>3 Liebman to also provide input into any future design</p> <p>4 or proposed program changes. Dr. Schwartzberg</p> <p>5 agreed to keep the committee updated."</p> <p>6 Do you remember any followup about this</p> <p>7 issue?</p> <p>8 A. I remember followup that this was the, I</p> <p>9 think the -- one of the small programs doing</p> <p>10 infusion therapy that could be used for 340B, that</p> <p>11 there was some discussion or interest in putting it</p> <p>12 under The West -- The West Clinic.</p> <p>13 Q. Was that still under University Hospital at</p> <p>14 this point?</p> <p>15 A. It was.</p> <p>16 Q. What is the Methodist University Hospital</p> <p>17 Senior Leadership Council?</p> <p>18 A. The Methodist University Hospital Leadership</p> <p>19 Council? I'm sorry, is that on this page? I'm</p> <p>20 missing it.</p> <p>21 Q. No, I'm sorry. I'm moving on from that</p> <p>22 document.</p> <p>23 A. Oh, I'm sorry, okay.</p> <p>24 Well, there is -- well, there are several</p> <p>25 committees, though I don't remember specific names</p>	<p style="text-align: right;">Page 187</p> <p>1 Q. And were you a member of this council?</p> <p>2 A. Yes, I believe I was.</p> <p>3 Q. And did any West Clinic doctors serve on this</p> <p>4 council?</p> <p>5 A. Well, they were members. They didn't show up</p> <p>6 hardly ever.</p> <p>7 Q. Do you see at the top the three columns of</p> <p>8 members present, bottom right column, Todd Tillmans,</p> <p>9 with an X next to his name?</p> <p>10 A. Yeah, looks like he was at that one meeting.</p> <p>11 Q. And my --</p> <p>12 A. I'm sorry. I'll go on to finish. Kurt Tauer</p> <p>13 also, he was not present. I won't go down the whole</p> <p>14 list. Jim West, I think, was an oncologist. He's</p> <p>15 not present.</p> <p>16 Anyway, I'm sorry. What was your question?</p> <p>17 Q. I think the fifth page of the document, it's</p> <p>18 the page -- the number in the bottom right-hand</p> <p>19 corner ends in 617.</p> <p>20 A. 617. There you go -- I think I went too far.</p> <p>21 617. Yeah, I see that page.</p> <p>22 Q. Do you see the third entry down, Dr. Todd</p> <p>23 Tillmans shared an update related to Gyn-On services</p> <p>24 at University Hospital?</p> <p>25 A. I see that.</p>
<p style="text-align: right;">Page 186</p> <p>1 of them. We had one group including all department</p> <p>2 managers and above that had a title. We had</p> <p>3 another group that were my direct reports. There</p> <p>4 was also another group of physicians, sort of a</p> <p>5 medical executive committee, that would meet from</p> <p>6 time to time.</p> <p>7 I don't know which one -- I don't remember</p> <p>8 the titles of the individual meetings, but there</p> <p>9 were several groups like that.</p> <p>10 MR. CHENERY: Paige, could you share</p> <p>11 Tab 13, please.</p> <p>12 THE VIDEOGRAPHER: Tab 13 has been</p> <p>13 shared and this will be Exhibit 271.</p> <p>14 (Whereupon, Exhibit 271 was marked.)</p> <p>15 THE WITNESS: (Reviewing.)</p> <p>16 Okay.</p> <p>17 BY MR. CHENERY:</p> <p>18 Q. You mentioned a number of committees. Does</p> <p>19 this refresh your recollection at all about the</p> <p>20 Methodist University Hospital - Senior Leadership</p> <p>21 Council?</p> <p>22 A. So this -- I don't remember the name, but</p> <p>23 this was a group that was primarily of physician</p> <p>24 members. It was a mix of physician members and</p> <p>25 administrative staff.</p>	<p style="text-align: right;">Page 188</p> <p>1 MR. CHENERY: Paige, could you share</p> <p>2 Tab 18, please.</p> <p>3 THE VIDEOGRAPHER: Tab 18 has been</p> <p>4 shared and that will be Exhibit 272.</p> <p>5 (Whereupon, Exhibit 272 was marked.)</p> <p>6 (Reviewing.)</p> <p>7 THE WITNESS: (Reviewing.)</p> <p>8 Okay.</p> <p>9 BY MR. CHENERY:</p> <p>10 Q. Do you see the subject is "Canceled: Biweekly</p> <p>11 Update: Mounce/Liebman"?</p> <p>12 A. I do.</p> <p>13 Q. What does that -- does biweekly updates refer</p> <p>14 to?</p> <p>15 A. Every other week or so we would have</p> <p>16 breakfast together, but we realized that we were</p> <p>17 being redundant and it was being done in different</p> <p>18 committee work that he would invite me to from time</p> <p>19 to time. There was not much -- there wasn't</p> <p>20 anything to talk about since there were no real</p> <p>21 programs going on at Methodist University Hospital</p> <p>22 that related to The West Clinic.</p> <p>23 Q. Did that change to a monthly update?</p> <p>24 A. I don't remember.</p> <p>25 MR. CHENERY: Paige, could you share</p>

1 Tab 19, please?

2 THE VIDEOGRAPHER: Tab 19 has been

3 shared and that will be Exhibit 273.

4 (Whereupon, Exhibit 273 was marked.)

5 **THE WITNESS: (Reviewing.)**

6 **Okay, I see it.**

7 BY MR. CHENERY:

8 Q. Do you see the subject is "Accepted: Erich

9 Mounce Monthly Update"?

10 **A. Yeah.**

11 Q. Sent to Jeff Liebman and Erich Mounce,

12 correct?

13 **A. Yes.**

14 Q. Do you know what the subject of these monthly

15 updates was?

16 **A. I don't remember. I note it says, "After**

17 **Strategy Retreat Meeting," but I don't remember**

18 **what -- what particular meeting that was.**

19 Q. Did you work with Dr. Matthew Ballow during

20 your time at Methodist?

21 **A. I did.**

22 Q. How often would you say you worked with

23 Dr. Ballow after he entered the cancer center?

24 **A. Dr. Ballow started at Methodist University**

25 **Hospital where I would meet with him more**

1 frequently. And then he was moved out to

2 Germantown. And after that I hardly ever met with

3 him. When he was at Methodist University Hospital I

4 was meeting with him on a regular basis.

5 Q. Was he head of the radiation oncology

6 program?

7 **A. At Methodist University Hospital he was.**

8 Q. What do you remember discussing with him at

9 your meetings?

10 **A. Well, it was a variety of things, had to do**

11 **with everything from radiation therapy through**

12 **cancer center activities through, I don't know,**

13 **different things like that.**

14 **When I started meeting with him, I think --**

15 **I don't know, maybe I have it wrong. I don't know**

16 **if he was a West -- a West Clinic -- a West Cancer**

17 **Center employee or a University of Tennessee**

18 **employee.**

19 Q. During your time at Methodist, were West

20 Clinic doctors involved in recruiting physicians to

21 Methodist?

22 **A. The Methodist University Hospital.**

23 Q. Were you aware of West Clinic doctors just

24 recruiting positions at all to Methodist?

25 **A. I -- well, again, I only know about Methodist**

1 **University Hospital, to be clear. I wouldn't**

2 **necessarily know about the rest of their system. So**

3 **is that your question?**

4 Q. I'm just asking for your knowledge. Are you

5 aware of West Clinic doctors being involved in

6 recruiting physicians to Methodist?

7 **A. I'm trying to get a clear picture of which**

8 **Methodist you mean, the whole system --**

9 Q. Any Methodist.

10 **A. Excuse me?**

11 Q. Any Methodist --

12 **A. Any --**

13 Q. -- recruiting doctors at all.

14 **A. Oh, well, I know that when we recruited one**

15 **or two doctors that one or -- one or two of them**

16 **might have been included on -- on the list of people**

17 **who got to interview potential candidates.**

18 Q. What was the Pathology Task Force and Search

19 Committee?

20 **A. I think the -- from what I recall, the**

21 **pathology group was having some troubles, and they**

22 **were -- wasn't sure if the group was going to**

23 **survive. So they needed some help trying to**

24 **reorganize.**

25 Q. Did Dr. Schwartzberg chair the Pathology

1 Search Committee?

2 **A. I don't remember who chaired the committee**

3 **but I think he was on the committee.**

4 MR. CHENERY: Paige, could you share

5 Tab 28, please.

6 THE VIDEOGRAPHER: Tab 28 has been

7 shared and it will be Exhibit 274.

8 (Whereupon, Exhibit 274 was marked.)

9 **THE WITNESS: (Reviewing.)**

10 **Okay, I see it.**

11 BY MR. CHENERY:

12 Q. See the subject, "Pathology Chair Search

13 Committee" at the top?

14 **A. 2015? Yeah.**

15 Q. And in the body, "Please RSVP to this meeting

16 request for the first meeting of the Pathology Chair

17 Search Committee chaired by Drs. Jon McCullers and

18 Dr. Lee Schwartzberg."

19 Does that refresh your recollection whether

20 Dr. Schwartzberg chaired the Pathology Chair Search

21 Committee?

22 **A. Only to the extent that it's written here.**

23 Q. Did Methodist have a bone marrow transplant

24 program when you started as president of University

25 Hospital?

1 **A. So I started nine years ago, and they had a**
 2 **transplant program that was on again, off again, on**
 3 **again. So I don't remember at the moment I started**
 4 **whether or not it was on or off at that particular**
 5 **month or time.**
 6 Q. When it was on, where do you remember it
 7 being located?
 8 **A. We had a -- with -- a bone marrow transplant**
 9 **has to have a certain number of isolation beds. So**
 10 **it would have been in one of the wings of the**
 11 **hospital.**
 12 Q. That would have been at University Hospital?
 13 **A. Correct, the admission side, yes.**
 14 Q. Who ran or was head of the bone marrow
 15 transplant program?
 16 **A. I don't remember the doctor's name.**
 17 Q. Do you remember Dr. Yasser Khaled?
 18 **A. I remember the name. It might have been him.**
 19 Q. Do you remember Dr. Khaled being recruited to
 20 run the bone marrow transplant program?
 21 **A. I remember that he was recruited to, yeah, to**
 22 **run the program. I don't remember when he was**
 23 **recruited.**
 24 Q. Do you remember West Clinic doctors being
 25 involved in Dr. Khaled's recruitment?

1 **A. I don't recall who was involved, but that**
 2 **would have been appropriate.**
 3 Q. Why would that have been appropriate?
 4 **A. Well, bone marrow therapy is a -- you know,**
 5 **most of those patients are considered to be similar**
 6 **to cancer patients.**
 7 MR. CHENERY: Paige, could you share
 8 Tab 33, please?
 9 THE VIDEOGRAPHER: Tab 33 has been
 10 shared and will be Exhibit 275.
 11 (Whereupon, Exhibit 275 was marked.)
 12 **THE WITNESS: (Reviewing.)**
 13 **Okay. I see the indication.**
 14 BY MR. CHENERY:
 15 Q. You see the subject is "Dinner with
 16 Dr. Yasser Khaled, BMT candidate"?
 17 **A. I do.**
 18 Q. And then in the body of the email you see,
 19 "Reservations under Dr. Lee Schwartzberg"?
 20 **A. I'm looking. Where would that be?**
 21 Q. Down -- I'm --
 22 **A. Oh, someone typed in, "Reservations under**
 23 **Dr. Lee Schwartzberg."**
 24 Q. And you are a recipient of this email. Do
 25 you recall attending this dinner with Dr. Khaled

1 when he was a candidate?
 2 **A. I remember interviewing Dr. Khaled. I don't**
 3 **necessarily remember this dinner meeting. I'm**
 4 **looking at the list, so on there is Dr. Stern,**
 5 **Dr. Reed, who's a cardiologist, Dr. -- Gary Shorb,**
 6 **Erich Mounce. Looks like a multidisciplinary group**
 7 **that had dinner with him.**
 8 Q. Do you see Lee Schwartzberg and Michael
 9 Martin as part of that group?
 10 **A. Yeah, I do. I do.**
 11 Q. Are those West Clinic doctors?
 12 **A. Dr. Schwartzberg, yes. I think Dr. Martin is**
 13 **a yes too.**
 14 Q. Do you recall whether Dr. Khaled's
 15 recruitment was successful?
 16 **A. I think Dr. Khaled ended up coming to work at**
 17 **Methodist University Hospital.**
 18 Q. And did Dr. Khaled eventually run the bone
 19 marrow transplant program at University Hospital?
 20 **A. He was the only bone marrow -- certified bone**
 21 **marrow therapy transplanter that was there.**
 22 Q. Do you know if the bone marrow transplant
 23 program achieved any certifications during
 24 Methodist's affiliation with West?
 25 **A. I don't remember.**

1 Q. Do you know what FACT, F-A-C-T, certification
 2 is, Foundation for the Accreditation of Cellular
 3 Therapy?
 4 **A. Yeah, FACT certification, I do know what that**
 5 **is.**
 6 Q. Do you know the process for achieving FACT
 7 certification?
 8 **A. FACT certification is usually done in a**
 9 **collaborative manner with blood banking as well as**
 10 **with various subspecialties, including pathology.**
 11 Q. Were there plans to expand the campus at
 12 Methodist University Hospital while you were there?
 13 **A. Yes.**
 14 Q. Were West Clinic physicians involved in the
 15 planning process for that expansion?
 16 **A. Well, let me be clear about defining**
 17 **"expansion."**
 18 **The -- the institution itself, because of**
 19 **the age of the buildings, were in dire need of new**
 20 **space. So there was plans for expanding -- well,**
 21 **not expanding, but replacing some of the old beds**
 22 **and facilities and to move some of the older**
 23 **clinics into a new building or tower that was going**
 24 **to be built.**
 25 Q. Do you know when Methodist began planning for

1 that expansion?

2 **A. I don't know when they began planning, no.**

3 MR. CHENERY: Paige, could you share tab
4 50, please.

5 THE VIDEOGRAPHER: Tab 50 has been
6 shared and that will be Exhibit 276.

7 (Whereupon, Exhibit 276 was marked.)

8 **THE WITNESS: (Reviewing.)**

9 **Okay I see it.**

10 BY MR. CHENERY:

11 Q. And the subject, "Forward MD Planning Session
12 for Cancer Session with Architects (MUH Campus
13 Expansion) Dinner Meeting."

14 Do you know what this MUH campus expansion
15 is referring to?

16 **A. Methodist University Hospital.**

17 Q. And do you know what the campus expansion --
18 this would be dated April 11, 2016 -- what that
19 would be referring to?

20 **A. Yeah, that was what I mentioned earlier, sort
21 of the new tower, so adding square footage but not
22 necessarily clinical square footage.**

23 **Let me say also that that tower was -- the
24 design with the theory behind it predated me. It
25 was -- had to do with when they expanded the**

1 BY MR. CHENERY:

2 Q. Mr. Liebman, when did you decide to file a
3 lawsuit against Methodist and West?

4 **A. I'm sorry, do you -- could you -- do you mean
5 which day?**

6 Q. If you remember.

7 **A. I don't remember which day.**

8 Q. Do you remember a week?

9 **A. No, I really don't. You know, I -- I -- you
10 know, the date -- you showed me the date it was
11 filed. I guess that's the date of filing. But I
12 don't remember which day or which week necessarily.**

13 Q. That filing date we looked at was May 30th,
14 2017. Do you recall approximately how long before
15 that date you decided to file your lawsuit?

16 **A. I do not.**

17 Q. Approximately how long before the lawsuit was
18 filed did you retain legal counsel to do so?

19 **A. I don't remember when I retained legal
20 counsel. It was -- I know I was seeking advice in
21 advance before I took any actions, but I don't
22 remember which week or month or anything like that.**

23 Q. Do you remember if it was a month before or
24 six months before or a year before?

25 **A. I don't -- I don't know. You know, I had**

1 **emergency room, they built it so that there could
2 be this expansion that would somehow go above it
3 and laterally, as I understood it.**

4 **It was before my time, but that was what was
5 explained to me.**

6 Q. And in the list of attendees in the body of
7 the email, you're listed at the top as yes. Do you
8 recall this meeting with the architects about the
9 expansion?

10 **A. There were several meetings with the
11 architects. I don't recall this particular one.**

12 Q. And did West Clinic physicians also attend
13 this meeting with the architects?

14 **A. They did. I believe they attended one
15 meeting, the doctors. That was this one. I think
16 Erich Mounce attended more than that.**

17 MR. CHENERY: All right. Why don't we
18 take another short break. I'll see what else I
19 have.

20 THE VIDEOGRAPHER: We are off the
21 record. The time is 12:51.

22 (Recess observed from 12:51 p.m. to
23 1:19 p.m.)

24 THE VIDEOGRAPHER: We are on the record.
25 The time is 1:19.

1 **concerns for a long time, had concerns that were
2 brewing. And all this information didn't come at
3 once; there were bits and pieces. Some fell into
4 place because I had to plan space allocation and
5 submit a business plan for the -- an occupation
6 plan, if you will, for the new facility. Some came
7 to me because I heard comments and, you know, things
8 that were told to me by the consultants, some
9 because I was sitting and listening to some of the
10 conversations that went on with the physicians and
11 their demands and their linking 340B to guarantee
12 90 percent or higher income.**

13 **You know, all that is a while ago, so it's a
14 little bit of a collage for me.**

15 Q. Do you recall if you retained legal counsel
16 before or after you received the January 2017 final
17 warning letter?

18 **A. I don't remember. Sorry.**

19 Q. Other than conversations with your lawyers,
20 I'm not asking about that, did you discuss filing a
21 lawsuit against Methodist with anyone before you
22 filed it?


23 **A. No.**

24 Q. Did you discuss filing a lawsuit against
25 Methodist with any other lawyers other than those

1 MR. VROON: We don't need that at this
2 time. I don't know if Taylor does.
3 MS. SWEET: The United States also does
4 not need copies of anything.
5 FURTHER DEPONENT SAITH NOT
6 (Proceedings concluded at 1:41 p.m.)
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1 E R R A T A
2 I, JEFFREY LIEBMAN, having read the
3 foregoing deposition, pages 89 through 214, taken
4 January 27, 2023, do hereby certify said testimony
5 is a true and accurate transcript, with the
6 following corrections, if any:
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21 JEFFREY LIEBMAN
22
23
24 Notary Public My commission expires:
25

1 REPORTER'S CERTIFICATE
2
3 STATE OF TENNESSEE
4 COUNTY OF Davidson
5
6 I, Terri Beckham, RMR, CRR, and licensed
7 Court Reporter, with offices in Nashville,
8 Tennessee, hereby certify that I reported the
9 foregoing deposition of JEFFREY LIEBMAN by machine
10 shorthand to the best of my skills and abilities,
11 and thereafter the same was reduced to typewritten
12 form by me. I am not related to any of the parties
13 named herein, nor their counsel, and have no
14 interest, financial or otherwise, in the outcome of
15 the proceedings.
16 I further certify that in order for this
17 document to be considered a true and correct copy,
18 it must bear my original signature, and that any
19 unauthorized reproduction in whole or in part
20 and/or transfer of this document is not authorized,
21 will not be considered authentic, and will be in
22 violation of Tennessee Code Annotated 39-14-104
23 Theft of Services.
24
25


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